MONTANA LEGISLATIVE HISTORY

Chapter 245 1993

Bill H _____ S 322 Original bill & history ____C

H. Committee on Agriculture			S. Committee on Agriculture		
Hearing Date(s)	Mar 11	✓ C	Hearing Date(s)	~~Mar 03~~ Feb 12	~ C
		C		Mar 03	✓ C
		C			C
		C			C
Date Out	Mar 11	✓ C		Mar 03	~ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SB 321 INTRODUCED BY CHRISTIAENS, ET AL.

REVISE MEDICAL PAROLE ELIGIBILITY

2/05	INTRODUCED		
2/05	REFERRED TO JUDICIARY		
2/05	FIRST READING		
2/05	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/12	FISCAL NOTE PRINTED		
2/15	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED		
2/18	2ND READING PASSED	48	0
2/19	3RD READING PASSED	46	3
	TRANSMITTED TO HOUSE		
2/23	REFERRED TO JUDICIARY		
2/23	FIRST READING		
3/18	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	84	7
3/30	3RD READING CONCURRED	96	4
	RETURNED TO SENATE		
4/03	SIGNED BY PRESIDENT		
4/07	SIGNED BY SPEAKER		
4/13	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 381		
	EFFECTIVE DATE: 10/01/93		

SB 322 INTRODUCED BY TVEIT, ET AL.

ALLOW DEPARTMENT OF TRANSPORTATION ACCESS TO CERTAIN INCOME TAX INFORMATION

BY REQUEST OF DEPARTMENT OF TRANSPORTATION

2/05	INTRODUCED		
2/05	REFERRED TO TAXATION		
2/05	FIRST READING		
2/12	HEARING		
3/03	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/04	2ND READING PASSED	49	0
3/05	3RD READING PASSED	46	2
	TRANSMITTED TO HOUSE		
3/06	REFERRED TO TAXATION		
3/06	FIRST READING		
3/11	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/15	2ND READING CONCURRED	86	10
3/18	3RD READING CONCURRED	81	17
	RETURNED TO SENATE		
3/24	SIGNED BY PRESIDENT		
3/26	SIGNED BY SPEAKER		
3/29	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 245		
	EFFECTIVE DATE: 04/01/93		

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, on February 12, 1993, at 8:04 a.m.

ROLL CALL

Members Present:
Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 316, SB 322
Executive Action: SB 299

HEARING ON SB 322

Opening Statement by Sponsor:

Senator Larry Tveit, representing Senate District 11, presented SB 322 at the request of the Department of Transportation. This bill will allow the Department of Transportation access to individual income tax information from the Department of Revenue records after providing notice to the applicant. The DOT is endeavoring to prevent fraudulent applications for fuel tax refunds from people who are not bona fide farmers.

Informational Testimony:

Bill Salisbury, Administrator of the Administration Division, Montana Department of Transportation (DOT), presented Exhibit 1 to these minutes. Mr. Salisbury said that under the Motor Fuels Tax Refund program, there is one option where a bona fide agricultural person can make application, and receive reimbursement, for 60% of his motor fuel taxes. The information the DOT seeks is the percentage of net farm income related to gross income, and SB 322 will give them the authority to obtain that information only after notice has been given to the applicant. The DOT will not be looking at the income tax records, but will send a form to the Department of Revenue (DOR) who will verify that the applicant is involved in a bona fide agricultural activity.

Proponents' Testimony:

None.

Opponents' Testimony:

Mick Robinson, Director of the Department of Revenue, spoke in opposition to SB 322, saying they would be able to provide the information the DOT requests if the DOT will not actually be making access into the DOR records, which are confidential. One concern the DOR has is whether the DOT application forms alert the applicants that this information is being sought from the DOR. Another concern is that the language in SB 322 is too broad and should be limited to the specific information the DOT is seeking, and the DOR would provide that information to the DOT.

Questions From Committee Members and Responses:

Senator Towe questioned Bill Salisbury about the DOR concerns and Mr. Salisbury responded that the DOT plans to add the applicant notification information on its application forms, and they will narrow the scope of the information sought in SB 322 to verification of the percentage of gross farm income vs. total income.

In answer to questions by Senator Eck, Bill Salisbury said the DOT guidelines for motor fuel tax reimbursement require that 50% of gross income must come from a bona fide agricultural activity.

Closing by Sponsor:

Senator Tveit said that the clarification language will be amended into SB 322 in order to allow the DOT the ability to make motor fuel tax refunds to bona fide farmers.

ROLL CALL

SENATE COMMITTEE TAXATION DATE 2-12-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

SENATE TAXATION
EXHIBIT NO. 1
DATE 2-12-93
BILL NO. SB 322

Date: February 11, 1993

Senate Bill 322

SUBMITTED BY: WILLIAM SALISBURY, ADMINISTRATOR
ADMINISTRATION DIVISION
MONTANA DEPARTMENT OF TRANSPORTATION

"AN ACT ALLOWING THE DEPARTMENT OF TRANSPORTATION ACCESS TO INDIVIDUAL INCOME TAX RECORDS UNDER CERTAIN CONDITIONS".

Allows the Montana Department of Transportation the ability to verify percentage of agricultural earned income for gas refund claimants. Effective upon passage and approval.

The Montana Department of Transportation appears before this committee to offer our support for Senate Bill 322.

This allows the Department of Revenue to verify the percentage of agricultural earned income for gas refund claimants upon the request of the Montana Department of Transportation.

Under the current statute 15-70-223, MCA, anyone purchasing gasoline in bulk and whose major endeavor and primary source of earned income is from the business of farming and ranching can file a refund claim for 60% of the tax paid on gasoline purchased. Yet, the Montana Department of Transportation has no way of verifying the income of applicants.

Prior to July 1, 1991, the Department of Revenue performed the motor fuel tax collection and refund process. They had the statutory authority to access these records. This enabling legislation for the Department of Transportation did not include this audit authority.

By allowing access to income tax information, the Montana Department of Transportation could verify whether or not the applicant is entitled to a refund under Option 1 of gasoline refund program.

The Montana Department of Transportation urges this committee to give this proposal a do-pass recommendation.

earmarked. Senator Grosfield said earmarking straps the Legislature's ability to prioritize, and that prioritization is the whole issue in SB 378. The State Personnel Director has indicated that general fund agencies are viewed as agencies with limited resources, less training opportunities, and less job security. The effects of so much earmarking, according to Senator Grosfield, is a crippling of the general fund portion of state government, and a lack of prioritization scrutiny over the earmarked programs.

Senator Grosfield said if there are accounts that do not meet the criteria list, where there are user-fee or federally-matched accounts, he is open to amending the bill. SB 378 does not eliminate programs; it puts funding into the general fund and makes everybody compete on equal footing.

Senator Grosfield said most of the earmarking that is done is not done in a systematic fashion. It is done in increments, it ties the legislators' hands, it pares the budgetary review process, reduces controls, and undermines state priorities. An optimal budget system allows legislators to see the big picture so they can weigh the relative merits of each program in terms of the total funding available. The setting aside of almost 3/4 of Montana's tax and license revenues results in fragmentation of setting policy and frustrates attempts to set optimum levels on a state-wide basis. Across-the-board cuts were deemed a necessary way to deal with the budget crisis, yet many programs are protected by earmarking and are difficult to manipulate to help resolve the crisis.

No Executive Action was taken on SB 378.

EXECUTIVE ACTION ON SB 322

Amendments prepared by Jeff Martin, Legislative Council Staff, dated February 24, 1993, were presented for Committee review. A copy is attached to these minutes. Mr. Martin said these amendments were prepared in conjunction with the Department of Revenue to determine what information the Department would supply to the Department of Transportation for percentage of gross farm income to total gross income for someone applying for a refund on use of gasoline for agricultural purposes.

MOTION ON AMENDMENT:

Senator Towe moved to AMEND SB 322.

DISCUSSION ON AMENDMENT:

Senator Towe asked if the notice to the taxpayer would appear on the Department of Transportation's application form. Jeff Martin said the DOT indicated at the hearing that this

notice would be on their form, which would address the concerns expressed by the Department of Revenue.

VOTE ON AMENDMENT:

The motion to AMEND SB 322 CARRIED UNANIMOUSLY on oral vote (SB032202.ajm).

MOTION/VOTE:

Senator Towe moved SB 322 DO PASS AS AMENDED (481250SC.Sma). The motion CARRIED UNANIMOUSLY on oral vote.

EXECUTIVE ACTION ON SB 316

Amendments prepared by Jeff Martin, Legislative Council Staff dated February 16, 1993, were presented for Committee review. A copy is attached to these minutes.

DISCUSSION ON FIRST AMENDMENT:

Senator Towe said the amendments were prepared because borrowers want authority to borrow from the Board of Investments rather than going to a bonding program.

MOTION/VOTE ON FIRST AMENDMENT:

Senator Towe moved to AMEND SB 316. The motion CARRIED UNANIMOUSLY on oral vote (481236SC.Sma).

DISCUSSION ON SECOND AMENDMENT:

Senator Towe said the Department of Commerce proposed amendments, at the hearing on SB 316, to put limitations on the borrowing so that the sum would not to exceed the level of legislative-approved projects and would not to exceed the program's ability to repay the loan from anticipated revenues. Senator Towe said he was satisfied that these amendments would not be necessary, and those amendments were not proposed at this time.

Senator Gage asked if multicounty districts would qualify. After discussion, it was determined to add "or multicounty" on page 2, line 23, following "county".

MOTION/VOTE ON SECOND AMENDMENT:

Senator Towe moved to AMEND SB 316 to add "or multicounty" on page 2, line 23, following "county". The motion CARRIED UNANIMOUSLY on oral vote (481236SC.Sma).

ROLL CALL

SENATE COMMITTEE TAXATION DATE 3-3-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:
We, your committee on Taxation having had under consideration Senate Bill No. 322 (first reading copy -- white), respectfully report that Senate Bill No. 322 be amended as follows and as so amended do pass.

Signed: _____
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 6.
Following: "TO"
Insert: "CERTAIN"

2. Title, line 7.
Strike: "UNDER CERTAIN CONDITIONS"
Insert: "IN ORDER TO DETERMINE WHETHER GASOLINE USE QUALIFIES AS AGRICULTURAL USE FOR THE PURPOSE OF OBTAINING A REFUND"
Strike: "SECTION"
Insert: "SECTIONS"

3. Title, line 8.
Following: "15-30-303"
Insert: "AND 15-70-223"

4. Page 5, lines 1 through 3.
Strike: "information" on line 1 through "to" on line 3
Insert: "the ratio of gross farm income to total gross income based on the most recent income tax return filed by"

5. Page 5, line 5.
Following: "given"
Insert: "as provided in 15-70-223"

6. Page 5.
Following: line 7
Insert: "**Section 2.** Section 15-70-223, MCA, is amended to read:
"**15-70-223. Estimate allowed for agricultural use -- seller's signed statement acceptable on keylock or cardtrol purchases.** (1) An applicant whose use qualifies as agricultural use may apply for a refund of 60% of the applicable tax on the gallons of gasoline as indicated by bulk delivery invoices or by evidence of keylock or cardtrol purchases as an estimate of off-roadway use. To ensure that the applicant's use qualifies as agricultural use, the department of transportation may request from the department of revenue information on the ratio of the

applicant's gross farm income to total gross income, provided that the department of transportation gives notice to the applicant.

(2) For purposes of application for a refund under subsection (1), the department shall accept, as evidence of keylock or cardtrol purchases, a statement of the sale of gasoline with applicable tax that identifies the purchaser and that is signed by a licensed distributor or a person licensed under 15-70-203 from whom the gasoline was purchased.

(3) If any invoice or evidence is either lost or destroyed, the purchaser may support his claim for refund by submitting an affidavit relating the circumstances of such loss or destruction and by producing such other evidence as may be required by the department of transportation.

(4) An applicant whose use does not qualify as agricultural use may not estimate and must maintain records as required by 15-70-222.""

Renumber: subsequent section

-END-

carriers are exempt in the bill and get their money back. He said this bill is needed and has the support of most everyone who uses the airports and services they provide. He urged the Committee to adopt the bill.

HEARING ON SENATE BILL 322

Opening Statement by Sponsor:

SEN. LARRY TVEIT, SD 11, Fairview, said SB 322 was introduced at the request of the Department of Transportation. There is presently no mechanism to determine who is entitled to a refund on diesel and gasoline fuel for agricultural purposes. The bill addresses the technical corrections needed to clarify the procedures. He said the Department of Transportation would further explain the bill.

Proponents' Testimony:

Bill Salisbury, Administrator, Administration Division, Department of Transportation, explained the bill in his attached written testimony **EXHIBIT 4.**

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. HIBBARD asked if people are abusing the agricultural fuel refund to such an extent that this bill is needed.

Mr. Salisbury replied agricultural fuel refunds amount to $3.4 million a year. All state refund procedures are being revised and improved. He said he feels there is abuse occurring in this particular area.

REP. FELAND asked if he would be eligible for the refund if he owned 21 acres of agricultural land and put in a bulk tank.

Mr. Salisbury said it would not be necessary to own agricultural land. Anyone can claim the refund if they use the fuel off road and can provide the proper dispersal records.

REP. FOSTER said he is concerned about the dispersal of confidential information if income tax records are used to verify the eligibility.

Bob Turner, Department of Revenue, said DOR would give the Department of Revenue the ratio information only. No other information would be released. The Department of Transportation is under the same confidentiality strictures as is DOR. They also have a place on the application form for taxpayers to sign in order for the Transportation Department to access the information.

Closing by Sponsor:

SEN. TVEIT assured the Committee that the confidentiality issue has been carefully addressed in the bill. There is a great deal of money at stake in this refund process and the bill simply tightens and clarifies the procedures. He urged the Committee to pass the bill.

EXECUTIVE ACTION ON SENATE BILL 322

Motion/Vote: **REP. TUNBY MOVED SB 322 BE CONCURRED IN.** Motion carried unanimously.

HEARING ON SENATE BILL 325

Opening Statement by Sponsor:

SEN. TOM BECK, SD 24, Deer Lodge, was in another hearing. **REP. FOSTER** introduced the bill and said it clarifies the administration of the beneficial use tax.

Proponents' Testimony:

Paul Van Tricht, Attorney, Department of Revenue, presented his written testimony in support of the bill **EXHIBIT 5.**

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: **SEN. BECK** closed.

HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Mr. Speaker: We, the committee on Taxation report that Senate Bill 322 (third reading copy -- blue) be concurred in .

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Hayne

Committee Vote:
Yes ___, No ___.

EXHIBIT 4
DATE 3/11/93
SB 322

Date: March 11, 1993

Senate Bill 322

SUBMITTED BY: WILLIAM SALISBURY, ADMINISTRATOR
ADMINISTRATION DIVISION
MONTANA DEPARTMENT OF TRANSPORTATION

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By allowing access to income tax information, the Montana Department of Transportation could verify whether or not the applicant is entitled to a refund under Option 1 of gasoline refund program.

The Montana Department of Transportation urges this committee to give this proposal a do-pass recommendation.